

1 **Rule 1102. Reliable Hearsay in Criminal Preliminary Examinations**

2 (a) **Statement of the Rule.** Reliable hearsay is admissible at criminal preliminary
3 examinations.

4 (b) **Definition of Reliable Hearsay.** For purposes of criminal preliminary examinations
5 only, reliable hearsay includes:

6 (1) hearsay evidence admissible at trial under the Utah Rules of Evidence;

7 (2) hearsay evidence admissible at trial under Rule 804 of the Utah Rules of Evidence,
8 regardless of the availability of the declarant at the preliminary examination;

9 (3) evidence establishing the foundation for or the authenticity of any exhibit;

10 (4) scientific, laboratory, or forensic reports and records;

11 (5) medical and autopsy reports and records;

12 (6) a statement of a non-testifying peace officer to a testifying peace officer;

13 (7) a statement made by a child victim of physical abuse or a sexual offense which is
14 ~~promptly reported by the child victim and~~ recorded in accordance with Rule 15.5 of the
15 Utah Rules of Criminal Procedure;

16 (8) a statement of a declarant that is written, recorded, or transcribed verbatim which is:

17 (A) under oath or affirmation; or

18 (B) pursuant to a notification to the declarant that a false statement made therein
19 is punishable; and

20 (9) other hearsay evidence with similar indicia of reliability, regardless of admissibility
21 at trial under Rules 803 and 804 of the Utah Rules of Evidence.

22 (c) **Continuance for Production of Additional Evidence.** If hearsay evidence is proffered
23 or admitted in the preliminary examination, a continuance of the hearing may be granted for the
24 purpose of furnishing additional evidence if:

25 (1) The magistrate finds that the hearsay evidence proffered or admitted is not sufficient
26 and additional evidence is necessary for a bindover; or

27 (2) The defense establishes that it would be so substantially and unfairly disadvantaged
28 by the use of the hearsay evidence as to outweigh the interests of the declarant and the
29 efficient administration of justice.

30 2017 Advisory Committee Note. – The prompt reporting language in (b)(7) was removed.